

# Language Aspects of Legal Education and Research in Czechia: Recent Dominance of English in International Communication and Heritage of Other Languages in a Nominally Monolingual Country



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## 1 Introduction

### 1.1 Foreword

Interesting contributions of national reporters and lively debate in section *Bilingual Legal Education: the Challenges and the Need* held on 24th July 2018 at the 20th Congress of International Academy of Comparative Law in Fukuoka (Japan) inspired me for the asking to join this section with subsequent reporting on the Czech Republic.

I have repeatedly tackled linguistic issues of both European and Czech laws and legal education also in the comparative perspective in papers<sup>1</sup> and presentations.<sup>2</sup> Being an associate professor at the Law Faculty of the Masaryk University in Brno, I have domestic experiences with evolving language policies.

### 1.2 Approach

The questionnaire initiating the section focused on bilingual legal education (BLE) without specification. Most presenters understood the adjective “bilingual” as an education in their national language and English as a language of international

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<sup>1</sup>Křepelka (2010, 2012, 2019).

<sup>2</sup>This text expand presentation “English as emerging parallel academic language” at the European Legal English Teachers’ Association Conference held on 23rd September 2017 in Brno.

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communication. Education in two languages in bilingual countries or cities seems to be a minority experience.

Czechia forms no exception. Education is mainly in the Czech language. However, complementary or additional courses are often in English. There are pressures for further Anglicisation in tertiary education. This trend is challenging for the law as an academic discipline. Moreover, other languages also need to be considered. Language issues in (legal) education and research become a contentious issue in a *nominally monolingual country*.

### 1.3 *Minority Languages in Czechia*

The protection of minorities and their languages in national legislation is robust in Czechia. Besides the Constitution,<sup>3</sup> international law guarantees it, among others, the European Charter for Regional or Minority Languages.<sup>4</sup> Czechia pledged to protect the languages of indigenous minorities: German, Polish, Roma, and Slovak.

Bulgarian, Greek, Romanian, Russian, Ukrainian, and Vietnamese are the most populous immigrant minorities. Contrary to other countries, there is a willingness to recognize even their languages as minority languages.<sup>5</sup>

### 1.4 *Czech as National and State Language*

Nevertheless, the enumeration of minority languages should not confuse international readers. Czechia is a monolingual country. Minorities are small. They ask primarily for subsidies for their cultural activity. Solely Poles living in a specific border region have their schools. Minority languages are absent in politics, administration, and judiciary.

Insistence on the Czech language is lukewarm. There are few requirements for its use. The absence of any rival language explains this attitude. Additionally, the non-revolutionary establishment of the Czech Republic is worth mentioning.

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<sup>3</sup> Article 25 of *Listina základních práv a svobod* [Charter of Fundamental Right and Freedom], [https://www.usoud.cz/fileadmin/user\\_upload/ustavni\\_soud\\_www/Pravni\\_uprava/AJ/Listina\\_English\\_version.pdf](https://www.usoud.cz/fileadmin/user_upload/ustavni_soud_www/Pravni_uprava/AJ/Listina_English_version.pdf).

<sup>4</sup> Adopted in 1992, effective, CETS no. 148, see Declaration of the Czech Republic contained in the instrument of ratification deposited on 15 November 2006.

<sup>5</sup> *Zákon č. 273/2001 Sb. o právech příslušníků národnostních menšin* [Law on Rights of Members of Ethnic Minorities] does not list language minorities. The Government Council for National Minorities as statutory representative (for English info see <https://www.vlada.cz/en/ppov/rnm/historie-a-soucasnost-rady-en-16666/>) includes representatives of both traditional and immigrant minorities such as Vietnamese, which in turn English Wikipedia lists as recognized minority language.

This monolingualism is so evident that the Constitution of the Czech Republic (1993) does not proclaim Czech as national or state language. Linguistic legislation bills repeatedly die in the Parliament. Lawmakers specified language aspects in administrative and judicial proceedings only when facing excessive expectations on translation.<sup>6</sup>

## 1.5 *English in Czechia*

Similarly, as in other countries, English has become the language for communication in international trade, investment, modernization, culture, and tourism. Most pupils and students learn English.<sup>7</sup> Unsurprisingly, younger people master it more than elderly ones. However, even they know English words. Many English words entered the Czech language.<sup>8</sup>

This Anglicisation is spontaneous. Standards for education, employment, or public space barely recognize it explicitly. Nevertheless, several politicians, officials, and journalists regard knowledge of English as an essential precondition for development. Therefore, they demand support and interventions. Among others, they call for prohibition of dubbing of movies, ignoring thus their audience and other languages, if Hollywood movies only existed. Some journalists even call for elevating English to co-official language. Other people are skeptical or reject these policies. *Anglicization* becomes a principal challenge for monolingual Czechia.

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<sup>6</sup>There was tendency to interpret § 18 of the Code on Civil Procedure [*Zákon č. 99/1963 Sb., občanský soudní řád*] that anybody has right for interpretation and translation at the expenses of the State. This provision applied by analogy in administrative judiciary proved absurd with increasing number of cases of migrants, asylum seekers and other cases related to foreigners after the accession to the EU. On the contrary, § 16 of the Code of Administrative Procedure [*Zákon č. 500/2004 Sb., správní řád*] stipulates that Czech is the official language of Czech administrative authorities, while documents in Slovak are generally accepted and authorities can dispense from certified translation, which is relevant in supervision of pharmaceuticals, air transport etc.

<sup>7</sup>For recent figures in the member states of the EU, see Eurostat, Foreign Language Learning, 2017. [https://ec.europa.eu/eurostat/statistics-explained/index.php/Foreign\\_language\\_learning\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php/Foreign_language_learning_statistics). According to them, 73% Czech pupils learn English in primary education and 99% in upper secondary education, while most have the second foreign language: German, French and Spanish.

<sup>8</sup>Adam (2012).

## 2 English as Global *Lingua Franca* and Its Impact on Academia

### 2.1 Remark of Esperanto

Numerous individuals developed planned languages in the nineteenth and twentieth centuries, intending to promote them as a language for universal communication. Esperanto was the most successful. Czechia belongs to countries with the strongest Esperantist movement. Several professional communities have developed their terminology in Esperanto.<sup>9</sup>

Participation at the conference addressing linguistic policies attached to the 2016 World Esperanto Congress in Nitra, Slovakia, revealed for me a community of *verda stelo* aficionados. Extolling of this constructed language resembles religious missionaries. However, concern emerged that they ignore likely results of its hypothetical success. Intense propagation or even imposition of Esperanto would incite disgust and resistance.

### 2.2 Consequences of the Dominance of English

Nevertheless, we can forget Esperanto because it has never played the role strived by many Esperantists. English has become a global *lingua franca* as the first language in history. According to *de Swaan*, English is the only *hypercentral* language.<sup>10</sup>

As tourists, we expect information on transportation, accommodation, sights, food, and regulations in English. We hope that everybody will answer our simple questions in English. Indeed, people meet our expectations. As professionals, we communicate with our foreign counterparts in English. This dominance is practical. We do not need to try to understand, read, and speak in several major languages.

Some people call for finalizing this trend. There is a tendency to praise English as having features absent in other languages. However, other people feel discomfort and disgust. “Full steam” is becoming controversial.

English eases communication even among the enemies of the West, such as Islamist terrorists. Nevertheless, this dominance generally results in preference of culture, society, economy, and politics of the United Kingdom and the United

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<sup>9</sup>We find legal practitioners and scholars among Esperantists. However, physicians or engineers seem to be more active. We can hypothesise about pragmatism, but also about exhaustion resulting from extensive use of any language in legal activities. Esperantists-lawyers focused primarily on international law, see Harry (1978).

<sup>10</sup>*Abram de Swaan* (de Swaan 2013) identifies English as the only hypercentral language, dozen supercentral languages serving international communication in particular regions or fields, approximately one hundred central languages and many peripheral languages.

States.<sup>11</sup> It puts them to the center of the world. Let us realize the frequent dropping of “Great Britain and “America” in their names.

The dominance of the English language creates an advantage for Great Britain, the United States of America, and other English-speaking countries, including these where it is the language of interethnic communication such as India. Profits generated thanks to this dominance are estimated so high to incite discussion about compensation or taxation.<sup>12</sup>

The Anglicization of touristic, expert, and political communication has an impact on this language. Specific sorts of this language besides its varieties in two dozen English-speaking countries emerge. Linguists coin Globish, International English, and Euro-English for them.<sup>13</sup>

The dominance of English has serious consequences for other languages. Dozen other major languages, i.e. *supercentral* languages, according to *de Swaan* demise as languages of international communication. Moreover, English starts to compete with one hundred *central* languages, i. e. national languages of particular countries or their parts in domestic settings.

### ***2.3 Academia as a Forefront of Anglicisation and Overlap with Internationalisation***

Publishing in international journals with the impact-factor required in most fields of science means publishing in English. Scholars and scientists use it in their presentations and lectures at international conferences and workshops.<sup>14</sup> English eases communication in international research teams. Guest lecturers provide their lectures in English. Courses offered for exchange students and programs aimed at international students capable and willing to pay, are mostly in English.

Many politicians, officials, journalists, professors, and students think that international exchange and cooperation are essential for academic excellence. Internationalization has become a mantra and slogan in academia.

Anglicization undoubtedly eases this effort. Scholars and students need not master several languages for their understanding in international settings. Interpretation disappeared from conferences. Translations of scientific literature vanished. Education in English attracts more international students than education in most national languages. It eases the recruitment of professors and lecturers. Therefore,

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<sup>11</sup> See publications of *Robert Phillipson* discussing language imperialism, among others his seminal works Phillipson (1992, 2009).

<sup>12</sup> Grin (2005), pp. 82–97.

<sup>13</sup> McCrum (2011).

<sup>14</sup> Among others, Ammon (2001), and Lillis and Curry (2010).

internationalization overlaps with Anglicisation. Unsurprisingly, English pushes of national language even from purely domestic situations.<sup>15</sup>

## 2.4 *Students Exchange and Education of Domestic Students*

Few talented individuals enjoyed short-term and post-graduate courses abroad a few decades ago. The European Union's programs *Socrates/Erasmus* launched mass student mobility. Law students in Brno now enjoy more opportunities than they are capable of using. There is little interest in studies in other central European countries. Instead, students long for America and compete fiercely for few scholarships offered by partner *John Marshall Law School* in Chicago.

European exchange programs should promote multilingualism. Nowadays, "English-only" prevailed. Namely, universities in countries in central and Eastern Europe offer courses exclusively in English.<sup>16</sup> Interest in the language of the host country is rare.

Fees paid by international students have become significant revenue for Czech faculties of medicine. English language programs also exist in some fields of science and technology. Despite subsidies and support for the establishment of English language programs, results are modest in social sciences and humanities.

As mentioned, professors and lecturers teach in Czech. However, there are various incentives for education in English. Additional credits—if compared with similarly extensive courses in Czech—stimulate enrolment into courses taught by both local and visiting teachers. However, foreign lecturers arriving in sufficient numbers due to support of academic mobility or requirement for it face disinterest if such stimulation is absent. The state supports delivering diploma theses in English with subsidies turned into wages. Even teachers sceptical towards this option thus encourage their students to write in English under their supervision.

## 2.5 *Shortcomings of Anglicisation*

Czechia is a welfare state. Public financing encompasses tertiary education. There are no study fees. Proposals to introduce them failed repeatedly. However, public money is scarce. Czech education is underfinanced if compared with other developed countries.<sup>17</sup>

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<sup>15</sup>Ljosland (2007).

<sup>16</sup>Kalocsai (2009).

<sup>17</sup>OECD, "Education at a Glance 2018. OECD Indicators", see [https://read.oecdilibrary.org/education/education-at-a-glance-2018\\_eag-2018-en#page8](https://read.oecdilibrary.org/education/education-at-a-glance-2018_eag-2018-en#page8).

Unsurprisingly, efforts to internationalize and Anglicize the Czech academic landscape suffers from shortcomings. Few pay attention to the quality of English. Support for its enhancement is absent. The recruitment of international professors and researchers has mixed results. The principal question is, however, whether students are ready for education in English and interested in it.

## 2.6 *English Advertisement for Academic Jobs and Mandatory English Habilitations*

Two controversial measures aimed at the author's Masaryk University deserve mention.

The International Scientific Advisory Board established by the Masaryk University underlined international selection of teachers and researchers. Czech law on tertiary education does not require Czech citizenship. The eventual requirement would be incompatible with the free movement of workers in the European Union in the case of its citizens.<sup>18</sup> We need not fear such an approach. Academia is mentally and institutionally xenophile. Foreign academicians are a proxy for excellence. Therefore, Masaryk University implemented this recommendation with job announcements in English. Interconnected webpages invited numerous academicians from poorer countries.

The Masaryk University has mandated that the theses submitted within *habilitation* shall be in English since 2020, while another language is permitted only if usual in a particular field.<sup>19</sup>

Habilitation is an evaluation of educational and scientific performance expected in Czech law. The procedure is lengthy, demanding, cumbersome, and its results unpredictable. Unsurprisingly, Czech academicians become *docents* at various ages. Success usually enhances individual positions, including indefinite contracts (tenure). *Professors* are the supreme rank, and many academicians do not achieve this rank in their careers.

Supporters justified mandatory English with an extended pool of reviewers. Hectic deliberation resulted in a compromise. Narrowly defined subfields could allow theses in Czech if renowned foreign professors attest unfeasibility of English.

Appraisal of this requirement as an important step towards the genuine internationalization of tertiary education was lesser than we would expect. Literates

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<sup>18</sup>Articles 45–48 of the Treaty on the Functioning of the European Union.

<sup>19</sup>See section 1 (3) of the Masaryk University Habilitation Procedure and Professor Appointment Procedure Regulations (English version available at: <https://www.muni.cz/en/about-us/official-notice-board/masaryk-university-habilitation-procedure-and-professor-appointment-procedure-regulations>): “Habilitation thesis may be submitted in Czech, Slovak or English or other foreign language commonly used in a given field. In the case of habilitation procedures initiated after 31 December 2020, the habilitation thesis must be submitted in English or other foreign language commonly used in a given field (with the exception of Slovak).”

criticized it sarcastically.<sup>20</sup> Other universities declined to follow. Representatives of technical universities confirmed that valuable publications are already written in English, while representatives of universities timidly embraced choice or remained silent. Legal scholars uttered that the Masaryk University undermines its position. Mandatory English is—at least in the field of law—unprecedented in central Europe.<sup>21</sup>

## ***2.7 Relation Between Law and Language***

Deliberation about mandatory English in theses for habilitation showed isolation of the law faculty. Few professors of arts and pedagogy joined our critique. Sciences, medicine, technologies became Anglicized during the last decades. Valuable publications—i. e. papers in journals with impact factor—are in English. Publications in their respective national language are regarded largely as communication towards professionals or students. Even if taught in a national language, most programs and courses are universal.

Questioning the relevance of international publications in the field of law incites debates on whether the law is science. Indeed, it is specific. Lawyers ascertain the legality of human behavior (required/allowed/prohibited) while interpreting statutes. Attorneys and in-house counsels argue in favor of their clients, enterprises, and institutions. Officials and judges balance arguments in their decisions and judgments. Legal scholars analyze the law in textbooks for the education of students, for information of legal practitioners, and their discourse.

Law is enacted, interpreted, and applied in a particular national language. The meaning of words in that particular language is crucial. Therefore, it has little sense to publish texts about national law primarily in any foreign language. Moreover, potential respectable foreign reviewers would decline its review with unfamiliarity with Czech law.

## ***2.8 Specifics of Internationalisation of Legal Practice, Education and Publishing***

Attorneys and in-house counsels are pragmatic. Broad resort to English makes their international communication easier than interpretation and translation provided by

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<sup>20</sup>Jamek (2017).

<sup>21</sup>I thank for comments to *Jacek Mazurkiewicz*, professor of the Faculty of Law, Administration and Economy of Wrocław University, Poland, *Janja Hojnik* of the Faculty of Law, the Maribor University, Slovenia and professor *Peter Christian Müller-Graff* of the Faculty of Law, the Heidelberg University, Germany.



professional interpreters and communication in several major languages. We can only speculate how linguistic shortcomings affect this communication.

Language barriers and limited knowledge of foreign law have a profound impact on cross-border legal practice. Attorneys and in-house counsels avoid advice on foreign law, not talking about the representation of their clients and employers at offices and before courts abroad, even if they were allowed to do it. Few lawyers master excellently local law and language. Therefore, they contact local lawyers instead. Many law firms join international networks for this purpose.

As mentioned, English has become the principal language of courses aimed at international students. We shall debate whether international students speaking countries realize sufficiently the pitfalls of international communication in the field of law, which is primarily national phenomenon closely connected with the national language. Legal scholars at international conferences also switched to English.

English also dominated in Fukuoka. Several rapporteurs, mostly from Romance language countries, used French as the second language of the organizer.<sup>22</sup> Still, other French-speaking participants mixed the two languages in their oral and powerpoint presentations or switched to English because they preferred understanding by all participants.

Journal articles, papers for collections, chapters of books, and monographs in the field of law are lengthy (dozens to hundreds of pages). Complex sentences are frequent. The final version results from repeated reformulations aimed at both precise argumentation and linguistic elegance.

Therefore, rendering scholarly texts in the field of law in English instead of their national language is burdensome and expensive, even for those with sufficient command of English. We shall not expect excellence in complex formulations without *proof-reading*, i. e. the correction of grammatical and stylistic errors by a native speaker.

Other sciences publications are different. Figures, tables, graphs, diagrams, depictions, and photographs deliver principal. Texts summarize research results on the few pages at most. Formulations are terse. Proof-reading is a minor effort. Journals improve these texts.<sup>23</sup>

Moreover, many terms in the field of law require an explanation for an international readership,<sup>24</sup> because they denote concepts of national law. A brief outline of *habilitation* was necessary here because there is no comparable procedure at universities in English-speaking countries.

Comparative studies are explicit in this regard. National rapporteurs write national reports. Their initiators and organizers summarize findings in so-called

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<sup>22</sup>One presenter mentioned that French authorities encourage (if not demand) French professors to present at the international conferences where French is expected or allowed, and not in English.

<sup>23</sup>One leading professor of geology highlighted that their research consists of terrain work, deployment of machinery, challenging measurements, and completing tables, diagrams, and schemes. Publications have multiple authors, someone summarizes results in English on few lines. Effort of eventual proof-reading or even translation of entire text is marginal.

<sup>24</sup>On translatability of legal institutes, see Kocbek (2008), p. 60.

general reports.<sup>25</sup> Unsurprisingly, the selection of topics usually reflects the interest of scholars from elite countries.<sup>26</sup> Sets of questions can contort findings of national reports.

Many other papers published “abroad” are *de facto* national reports. Authors write on particular topics because they have studied and practice particular law while understanding the national language. National affiliation plays a small role, and the author is hard to identify if concealed solely in papers addressing the legal theory of international and European law.

Despite huge efforts spent by most authors of national reports or papers based on domestic experience, we read texts summarizing national law and its practice accompanied by the necessary outline of political, social, and economic aspects. Minutely interpretation of particular provisions is downplayed because it requires an explanation of terms in the particular national language.

Moreover, most legal themes are relevant primarily in national settings. Authors of dissertations and theses for habilitation publish them as monographs. Their readership is domestic. English version would find few readers.

At all, pressures for English in legal research and education and discontent with it is not specific for Czechia. Many scholars in Fukuoka highlighted the relation between national language and law and deplored pressure for Anglicisation. It seems that consensus emerged on it. We can note here that all these scholars expressed this criticism in English.

## 2.9 Complementarity of International and European Laws

The supporters of mentioned trends highlight that international and European laws differ from national law and should thus be subject to similar requirements as other sciences if confronted with outlined arguments.

Indeed, international law is different. Countries select several languages as the authentic languages of international treaties and official languages of international organizations. Diplomats and experts communicate in these languages. For example, English, French, Spanish, Russian, Chinese, and Arabic are official languages of the United Nations Organisation, and authentic languages of international treaties agreed under its auspices. Official multilingualism seems necessary in the European Union law. There is no language of interethnic communication in this

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<sup>25</sup> Kischel (2015), p. 5.

<sup>26</sup> I was glad to participate in the section Genetic Testing in Insurance and Employment in Fukuoka. I thank to Professor *Lara Khoury* for excellent coordination. Nevertheless, genetic testing in the field of employment is absent in Czechia, while life insurance is underdeveloped. The topic is not salient in Czechia. At least, it provided an impulse for preparation of the first national treatise of legal aspects of genetic testing.

unique supranational structure. Nevertheless, resort to English, French, and German as its working languages<sup>27</sup> results in a similar situation.

Therefore, academic discourse about international and European law emerges in major languages. Legal scholars specialized in these fields routinely read texts in these languages. Knowledge of foreign languages is indispensable. Nevertheless, we should not ignore the parallel domestic reflection conducted in national languages. International and European laws interact with national laws. National authorities shall apply or consider international law. The European Union relies on its member states for enforcement of its law. Mandatory English could undermine this internal reflection.

## ***2.10 Dominance of a Language of Common Law in International Legal Discourse***

English is the language of countries where Anglo-American *common law* exists. However, common law is the second major legal system of the world, which differs from continental *civil law* in most European countries. It is difficult to describe institutes of the latter with English without descriptions or with the troublesome resort to terms rooted in common law settings.<sup>28</sup> We shall not be surprised if linguists identify “continental lawyers” English.

Moreover, this specific linguistic situation seems to incite the preference for common law concepts. Most legal scholars and practitioners know the different perceptions of whether judgments could and should be regarded as (case-)law.<sup>29</sup> Different roles of statutes also deserve our attention. Moreover, entire academic reflection diverges.<sup>30</sup>

Patriotism accompanied eventually with disgust towards the Anglo-American model of society, government, and the law could result in hostility towards English. There are Czech and Polish professors with good command of English, which try to suppress it at conferences by them, expecting mutual intelligibility among Slavic languages or preferring other major languages. Mentioning them hints us to pay attention to the role of *other foreign languages*.

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<sup>27</sup> Křepelka (2012).

<sup>28</sup> Kocbek (2008), p. 63.

<sup>29</sup> Among others, Kischel (2015), from various perspectives, p. 667 (convergence) and p. 49 (legal imperialism).

<sup>30</sup> Grechenig and Gelter (2008).

### 3 Other Foreign Languages in Czech Law, Legal Education, and Research

#### 3.1 History Changing Language Landscape

*Corona Regni Bohemiae* was an important European state composed of autonomous lands Bohemia, Moravia, Silesia, Lower Lusatia, and Upper Lusatia. It lost its independence at the dawn of modern history with the ascension of the Habsburg dynasty. Emerging European superpower encompassed these provinces since 1547 and with a tighter grip since 1620.

The multinational monarchy demised with the First World War (1914–1918). Humanism and modernization marked the interwar Czechoslovak Republic (1918–1939), but its complex ethnic makeup contributed to its collapse and occupation by Nazi Germany at the beginning of the Second World War (1939–1945).

Liberation by the Soviet Union marked the path to communist totalitarianism (since 1948). Nevertheless, distinguishing is desirable. The regime had its revolutionary phase (50ties), moderation (60ties) culminating with “the Prague Spring” (1968) stopped with occupation by Soviets, so-called normalization (70ties) followed by stagnation (80ties) with faint reforms (*perestroika*).

The Velvet Revolution (1989) launched a transition to liberal democracy and market economy. The dissolution of Czechoslovakia (1992) was ephemeral trouble. Czechia joined the Council of Europe (1993), the North Atlantic Treaty Organisation (1999), and the European Union (2004). International trade, investment, and mobility increased significantly during the last decades, thanks to this integration and globalization in general.

Outlined periods resulted in the encounter of Czech society with several major and minor languages. We will mention them together with their importance in law and legal science.

#### 3.2 Turbulent Developments of Czech Law

Law in Czech territory changed profoundly in the twentieth century. Wars had a severe impact on people. Injustice and violence emerged. Hastily adopted law expressed policies of new regimes. Nevertheless, legal thinking remained largely intact.<sup>31</sup>

Socialism had a different impact. Local legal scholars claimed that a distinct socialist legal system emerged, while western authors accepted it.<sup>32</sup> Ignorance for law characterized its first totalitarian phase. The so-called socialist legality marked

<sup>31</sup>For example, regarding the impact of Nazi occupation, see Schelle K, Tauchen J (2009).

<sup>32</sup>See Kischel (2015), p. 218 (citing David, René, Jauffret-Spinosi, Camille, *Les grand systèmes de droit contemporains*, 11th edition, 2002) and 219 (citing Eörsi, Gyula, *Comparative civil (private) law*, 1979).

the stabilization of the regime. However, Czechoslovak legal thinking gradually vulgarised. Frequent amendments and recodifications in the period of transition destabilized law, while formalism alternated with revolts against it. For various reasons, authorities applied law selectively. Unsurprisingly, widespread nihilism emerging in the twentieth century continues.<sup>33</sup>

### 3.3 *Latin: Roots of European Culture*

Latin as a former official language of the Roman Empire and as a liturgical and doctrinal language of the Roman Catholic Church enabled communication of educated people in medieval Europe, while masses were illiterate. Therefore, reformation (fifteenth and sixteenth century) emphasized vernacular languages, i. e. Czech and German languages for Czech lands. Bible translations marked the emergence of modern languages.

Nevertheless, Latin continued to serve the communication of diplomats, clergy, scientists, and scholars, including those opposing triumphant Catholicism, such as exiled educationist John Amos Comenius. It retained its position of primary classical language in secondary education for centuries. It was indispensable until the twentieth century at *gymnasia*. Unsurprisingly, socialism neglected Latin but did not dare to suppress it overtly.

Latin also dominated European academia. Terminology in many fields of science originated from Greek<sup>34</sup> and Latin. This dominance was so strong that it has not disappeared until now. Academic emblems contain Latin, and ceremonies rely on it.

However, the role of Latin in law goes beyond symbols. Latin was the language of Roman law, which contributed to the development of law and legal thinking in many European countries. Latin phrases are shorthand for legal principles. Even laypeople understand many of these phrases. The law of the Roman Catholic Church is also Latin. Unsurprisingly, legal education in socialism downplayed Roman law and suppressed canonic law. The Roman law revived during the transition to democracy as an introduction to private law.

Despite the little interest, law faculties offer facultative courses of Latin. However, nobody expects to communicate in Latin. Academic ceremonies reveal that most academicians hardly understand Latin phrases they pronounce. Nobody writes

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<sup>33</sup> Kischel (2015), pp. 571–594. Author explains slow transformation of law, legal practice and legal doctrine in post-socialist countries, impetuous law-making, relics of socialist thinking in the field of law, widespread formalism, crisis of leadership in the field of law, perfunctory enforcement, conservative education, influence of old elites, legal nihilism. However, he distinguishes post-Soviet sphere in general and Russia with revived self-confidence and new member states of the EU to which Czechia belongs.

<sup>34</sup> Classic *gymnasia* taught also (old) Greek and its suppression in favour of living languages was subject of debates one century ago, while (biblical) Hebrew was restricted to seminars for clergy.

now legal treatises in Latin. Even our teachers of Roman law considered eventual writing of their theses in Latin as a joke.

### 3.4 German: Former Dominance and Recent Impulse

Japan and Korea decided the reception of German law.<sup>35</sup> Czechia's adherence to the Germanic subgroup of continental law (civil law) is a consequence of being part of the Habsburg monarchy in the nineteenth century when foundations of modern civil (*Allgemeines Bürgerliches Gesetzbuch* in 1811), criminal and administrative laws emerged.<sup>36</sup>

The Czech Kingdom was an important member of medieval German *Reich*. German was present in Czech lands since German colonization in the thirteenth and fourteenth centuries. The country was bilingual for centuries. Austrian German (numerous *Austriazisms*) was the primary official language in provinces Bohemia, Moravia, and (Austrian) Silesia in the nineteenth century.

Czech emancipated during the so-called Czech National Revival. However, German remained primary.<sup>37</sup> Judges, officials, attorneys, and in-house counsels knew German. Legal scholars than law faculty in Prague treated law primarily in German. Resort to Czech in politics and law increased gradually. Czech legal journal *Právník* (the Lawyer) published since 1861 belongs to the oldest legal journals worldwide. Czech legal terminology derives from Austrian-German one and remains compatible with it.

The position of the two languages reversed in the interwar period.<sup>38</sup> Czech (or Czechoslovak) became the official language of the Czechoslovak Republic. German-speaking public servants should master it. Nevertheless, minority languages enjoyed protection.<sup>39</sup> Czech schools continued to teach German as a major foreign language. There was an immense trade and cultural exchange between Germany and Austria. Czech (Czechoslovak) legal scholars, including these newly established faculties in Brno, and Bratislava (in Slovakia), resorted routinely to German. Furthermore, the law faculty within the German section of the Charles University (established 1882) lectured and published about Czechoslovak law in German.<sup>40</sup>

Nazi occupation (1939–1945) made German dominant again, while terror endangered Czechs as a nation.<sup>41</sup> The retaliatory expulsion of Germans in 1945 caused an abrupt change in the linguistic landscape of re-established Czechoslovakia.

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<sup>35</sup> Hertel (2009), p. 167.

<sup>36</sup> Hertel (2009), p. 164.

<sup>37</sup> Velčovský (2014), pp. 78–141.

<sup>38</sup> Velčovský (2014), pp. 144–182.

<sup>39</sup> For detailed analysis in German language, see Epstein (1927).

<sup>40</sup> Skřejpková (2013).

<sup>41</sup> Velčovský (2014), pp. 183–216.

The resurgence of economic and cultural interaction with both socialist East and capitalist West Germany caused a gradual return of German to secondary and tertiary education. Several academicians, including legal scholars, recognized the importance of German.

Germany and Austria became major trade partners and investors in the period of transition. Many German-speaking tourists visit Czechia. Czechs found well-paid jobs in Germany and Austria. Nevertheless, German is strictly facultative. Despite the advantages of its mastering, many parents, pupils, and students perceive German as complicated and unsympathetic.

Post-war (West) German constitutionalism provided an important inspiration for modern Czech constitutionalism. Several talented students and lecturers found their path to Germany and other German-speaking countries. Several legal scholars resort extensively to German and Austrian legal literature. German seems to be the only language besides English in which visiting professors deliver lectures attracting some audience. Several conferences and courses are in German.<sup>42</sup>

Some of these scholars regard literature written in German as a crucial prerequisite for the cultivation of domestic law. However, other scholars claim that English is sufficient. Cleavage emerges between legal scholars oriented on German and Anglo-American laws.<sup>43</sup> We can observe similar differentiation among judges, officials, attorneys, and in-house counsels. Several ones take advantage of their knowledge of German, while others find it unnecessary.

### ***3.5 French: Remembering Its Importance in International Culture and Politics***

The French language achieved a prominent position during the nineteenth-century in culture, arts, society, diplomacy, administration, management, and law. Artists, business people, politicians, and scholars mastered it. However, the French lost this position in favor of English during the twentieth-century. Its retention as an official language in many international organizations and associations,<sup>44</sup> the International Academy of Comparative Law included,<sup>45</sup> is heritage resulting from its previous dominance.

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<sup>42</sup> Among others, Austrian-Czech-Slovak summer school of private law, organized by professors of the Faculty of Law in Olomouc and Wirtschaftsuniversität Wien.

<sup>43</sup> For similar impact on legal scholars, elite attorneys and superior court judges in Japan, South Korea and Taiwan, see Kischel (2015), p. 800.

<sup>44</sup> Calvet (2017), pp. 225–230.

<sup>45</sup> See Internet presentation at [www.aicd-iacl.org](http://www.aicd-iacl.org). This bilingualism, however, is not anchored in published statutes and by-laws of the Academy established as association according to law of the Netherlands.

Gymnasia and vocational schools in the Austrian-Hungarian monarchy taught French as a major language. French flourished in the interwar period thanks orientation of Czechoslovakia towards France as then superpower co-orchestrating the Versailles Conference (1919) and disgust towards German as the language of the ancient monarchy. Despite the official preference for Russian and gradual switch towards English, French remained among facultative languages in the period of socialism similarly as German.

Francophone students could enjoy generous support by the French Republic, trying to support retention of its position. Graduates of law, international relations, and public administration realized that French boosts their careers in diplomacy and global and European international organizations.<sup>46</sup> The Faculty of Economics and Administration of the Masaryk University and the Université Rennes II teach *Maitre Franco-tcheque de l'administration publique*. The program suffered from declining interest because recent Czech students lack knowledge of French. Unsurprisingly, France reduced its support.

There are Francophone academicians in Czechia. Nevertheless, the French language disappears from academia. We can hypothesize that the distance makes research in libraries and participation at conferences expensive. We can also perceive the disinterest of French academia for Eastern Europe, resulting in few invitations to conferences and publications.

As regards law, differences between Germanistic and Romanistic (Napoleonic) law and less voluminous literature if compared with German one could explain limited interest. I do not remember any Francophone conference, workshop, summer school, and research project in the field of law in Czechia since 2000.

### 3.6 *Russian: Surprisingly Weak Impact*

International readers know that Czechoslovakia was part of the communist bloc dominated by the Soviet Union. Perhaps, they expect that the Russian language played an important role.

Indeed, socialist Czechoslovakia promoted the Russian as a language for the future communist planet. Russian was compulsory in primary and secondary education. Many Czechs and Slovaks mastered this Slavic language. However, attitudes towards Russian changed. Widespread sympathies based on the nineteenth-century pan-Slavism and gratitude for liberation in 1945 turned into antipathy after 1968.

Russian language exam was compulsory at universities. However, attempts to promote Russian failed. Soviet scientific literature was relevant in math or physics. However, tightly controlled social sciences could not deliver anything attractive. The economic and social underdevelopment of the Soviet Union has become apparent.

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<sup>46</sup>For contemporary reflection of both official multilingualism and retention of French as internal working language at the Court of Justice of the European Union, see McAuliffe (2013).



We need to realize attitudes towards law in socialism to understand little importance of Russian in the field of law. Soviet legal doctrine gradually acknowledged law as an instrument of governance, highlighting specifics of the law in socialist countries.<sup>47</sup> However, obvious primitivism limited central European legal scholars' interest in Soviet literature. References to it usually served to show authors' compliance with Marxism-Leninism.

Unsurprisingly, Russian disappeared with the collapse of socialism. Lists of facultative languages contained it for the surplus of its teachers. The resurgence of trade with Russia and other post-soviet countries, investment in them, and immigration from them spared Russian from disappearance. However, it is a minority option. The recent absence of Russian at Czech law faculties results from its lack in secondary education.

We can explain the recent marginality of Russian in legal academia with its orientation towards the West, the peripheral position of Russia in European organizations, and labile, shaky, and formalist law in post-soviet countries. Even older scholars and practitioners with tested Russian would hardly be capable of discussing legal topics in this language now.

### ***3.7 Polish: Stronger Role than Expected***

Many inhabitants of Czech Silesia understand Polish thanks to television. Curious intellectuals master reading and understanding quickly when recognizing many false friends.

Despite turbulences in communist Poland, Polish professors were audacious. Western literature was available thanks to translations to the Polish, especially in the field of humanities and social sciences. Poland belonged to few countries allowed to visit. Moreover, Czechoslovaks enjoyed the sympathies of Poles.

Shared experience with both socialism and transition, linguistic and geographic proximity, and mutual interest boost cooperation. Several Czech legal scholars hold Polish legal literature in high esteem and study it for the refinement of Czech law. However, Polish does not rank to major languages. Therefore, nobody expects and demands its knowledge.

### ***3.8 Slovak: Younger Brother***

Slovak and Czech are mutually intelligible languages. Contrary to emancipating Czech, Slovak faced suppression in the Hungarian part of the Habsburg monarchy.

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<sup>47</sup>For recent retrospective reflection of Soviet law, see Berman (2014). However, international readers shall bear in mind that socialist countries differed significantly.

Moreover, Slovakia lacked any tradition of autonomy or statehood. Czechoslovakia thus enabled the resurgence of Slovaks as a nation.

Interwar Czechoslovakia regarded Slovak for political convenience as a variety of Czechoslovak language. The Second World War, when Germany misused Slovak desire for emancipation, resulted in abandoning this approach. The federalization of Czechoslovakia (1968) made its dissolution (1992) easy after brief democratization and liberalization.

This divorce proved as the best solution. Bilateral relations are intense and friendly. There are extensive trade, investment, joint business, job migration, cultural exchange, and many mixed marriages. The Czech and Slovak languages are deemed mutually intelligible also for official purposes. Numerous Slovak students study now at Czech universities, resorting to Slovak.<sup>48</sup>

Czechs assisted Slovaks with the transition from Hungarian administration since 1918. Slovakia retained Hungarian law, while uniform Czechoslovak law emerged after 1945. However, the Czech impact on Slovak legal terminology precedes the establishment of Czechoslovakia, because Slovaks used Czech in writing. Unsurprisingly, emancipatory tendencies encompassed attention for Slovak legal language.<sup>49</sup>

Czech and Slovak laws diverged since the dissolution of Czechoslovakia. We can regret that the comparison of the two close national legal systems is not systematic. Probably, tackling the quickly changing law, and various pressures in underfinanced tertiary education in both countries explains it.

## 4 Conclusions

### 4.1 *Czechia as Namibia and Pakistan in Tertiary Education?*

There is excessive and inappropriate Anglicisation of education in various countries. We can mention Namibia for primary education<sup>50</sup> and Pakistan for the secondary one.<sup>51</sup> Namibian government promoted English for strengthening national identity

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<sup>48</sup>Bilateral agreement agreed in 1999 established free access of Czech and Slovak students to universities of other contracting party. However, migration is asymmetric. Slovaks in Czechia largely outnumber Czechs in Slovakia. These studies are at the expense of Czech taxpayers if not re-paid with taxes generated from subsequent job in Czechia. Activist case law of the European Court of Justice cements this asymmetry.

<sup>49</sup>Fundárek (1940).

<sup>50</sup>Sukumane Joyce (1998).

<sup>51</sup>For journalist reflection, see de Lotbiniere, Max, Pakistan facing language crisis in education, the Guardian, 7. 12. 2010, <https://www.theguardian.com/education/2010/dec/07/pakistan-schools-language-crisis-lotbiniere>, even the report commissioned by the British Council as an organisation promoting English worldwide recognizes problematic outcomes of premature Anglicisation, see Coleman (2010).

in a multilingual country, while Pakistani parents prefer English as a matter of prestige. However, pupils with a poor understanding of English taught by teachers with limited skills learn hardly anything.

Czechia is can unwittingly emulate these countries in tertiary education. Scarce financing is the first ingredient. Problematic governance of universities and their faculties is the second ingredient. Students enjoy significant representation in academic senates.<sup>52</sup> Rectors and deans elected by them seek their support for their policies. Many students embrace Anglicisation. Weak Czech patriotism is the third ingredient. Polish colleagues stressed that English would be regarded—at least in the field of law—inappropriate for habilitation theses.<sup>53</sup>

## ***4.2 Balance of Czech, English and Other Languages in Legal Education and Research***

English has become the language of international communication, also among legal practitioners and scholars. Its knowledge is indispensable. Therefore, legal English is an enhancement of this language learned by most students.<sup>54</sup> Exposure of students to lectures provided by visiting professors increases their preparedness for international communication.

Nevertheless, the law is a national phenomenon. International and European laws are complementary. Therefore, Anglicisation resulting in suppression of national language is troublesome in general. It is especially worrisome in underfinanced education and research of national law destabilized after all political, economic, and societal changes.

Additionally, we shall not ignore other languages. Foremost, German deserves attention for its importance in the foundation of Czech law in the former bilingual territory and inspiration in German, Austrian, and Swiss laws. Undue Anglicization reduces the capability to consider national laws closer to the Czech one than Anglo-American laws.

Certainly, English is the language of international students arriving for weeks or months. A systematic comparative approach relying on literature written in English could be suitable for post-graduate courses, doctoral studies, and desirable among legal scholars.

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<sup>52</sup>International readers can found critical appraisal in Kudrová (2011).

<sup>53</sup>As explained by the professor *Elzbieta Kuzelewska* from Faculty of law and administration of the University in Białystok for (centralized) habilitation proceedings in Poland.

<sup>54</sup>Traditionally, curriculum at Czech faculties included courses of two languages focusing on professional terminology—Russian and selected major non-Slavic, i.e. Western language.

However, the core law study could not be de-nationalized.<sup>55</sup> Therefore, we shall be skeptical toward efforts to render the entire study program in English. Teaching law in English would be problematic because most graduates will practice law in the national language, even if it were similarly demanding. The opposite is true. Teaching and learning in English are exhaustive.

We shall not overestimate the capability of people to learn foreign languages. English known by the young generation deserves critical appraisal. Nevertheless, we shall demand more from intellectuals. Multilingual professors and students learning some other language besides English and using it for the understanding of foreign laws is an alternative to a law school where impetuous Anglicisation undermines satisfactory reflection and desirable cultivation of national law separating it from practice in Czech.

Besides German, French, and Russian, a surprising number of Czech pupils and students learn Spanish, perceiving it easier than other foreign languages. Individuals study major Asian languages: Arabic, Chinese, or Japanese. Job, hobby, ancestry, or partner motivate individuals to study also minor languages. It is unfortunate if achieved knowledge of these language vanishes in tertiary education.

### 4.3 *Impetuous Anglicisation Averted*

Quickly added Czech language requirement rendered mentioned announcements of vacant academic positions nonsense. Foreign “post-docs” do not understand it, continue to apply, and face exclusion on formal grounds. Fortunately, supporters of Anglicisation fail in their effort to compel local teachers and students to switch for English with the recruitment of international lecturers lacking knowledge of Czech.

We shall also appreciate that the Scientific Council dispensed from mandatory English in habilitation theses in fields of domestic law—civil, commercial, labor, constitutional, criminal, administrative, financial laws, as well as in legal theory and legal history. Professors from neighboring countries helped with explicit opinions. Legal scholars in Brno started to consider the relationship between law and language.<sup>56</sup> Unfortunately, such a waiver is hard to achieve for international law, international private law, and the European Union law.

However, the partial failure of the Faculty of Art to convince the same body and timorousness of the Faculty of Education, which prepares teachers for schools teaching almost exclusively in Czech, indicates that struggle for balance between Czech and English continues in Brno. Fortunately, the requirement did not survive

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<sup>55</sup> Kischel (2015) considers non-existence of genuine in-depth study of foreign law (pp. 5–6). De-nationalisation cannot be perceived in tendency of American school of law towards teaching *eine Art fiktives, einheitlich amerikanisches Recht* (p. 303), because state laws are significantly closer and linguistically homogenous.

<sup>56</sup> Bejček (2017).

before its materialisation scheduled for 2022. New rector and his team recognised its strangeness and—perhaps, thanks to the COVID-19 pandemic distance deliberation—the University Academic Senate abolished it without, while stressing other forms of desirable internationalisation in exchange. Nevertheless, many Czech scholars and politicians continue to regard this form of Anglicisation as desirable.

#### 4.4 *Need for Language Policy and Icelandic Inspiration*

Certainly, we can explain the measures mentioned above with psychology. Masaryk University is the 2nd biggest and strongest university in most rankings in Brno, which is the 2nd most populous city of Czechia. Ironically, Czechoslovakia established it as “the second Czech university” just one century ago in 1919.<sup>57</sup>

Masaryk University shall carefully ascertain the role of Czech as the national language (plus Slovak), English as global lingua franca, and other major and minor foreign languages. An explicit academic language policy is desirable. *Málstefna*, the language policy of *Háskoli Íslands* (the University of Iceland)<sup>58</sup> as a keystone institution of tertiary education established by a small nation defending its linguistic identity, could inspire.

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<sup>57</sup>Zákon č. 50/1919 Sb. z. a n., kterým se zřizuje druhá česká univerzita (Law on establishment of the second Czech university), adopted by the (provisional) National Assembly in 26th January 1919, see [https://www.muni.cz/media/3062591/zakon\\_o\\_zrizeni\\_muni.gif](https://www.muni.cz/media/3062591/zakon_o_zrizeni_muni.gif).

<sup>58</sup>University of Iceland Language Policy, as approved by the University Forum on 10 May and by the University Council on 19 May 2016, [https://english.hi.is/university/university\\_of\\_iceland\\_language\\_policy](https://english.hi.is/university/university_of_iceland_language_policy).

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